

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
FLORENCE DIVISION

Civil Action No. 4:2015-cv-01649-RBH

Nationwide Life and Annuity Insurance Company,)	
)	
Plaintiff,)	
)	
vs.)	
Margaret Rose C. Sims, as the duly appointed)	MEMORANDUM OF SIMS
Representative of the Estate of)	
David Lee Sims, Jr. and Heather Sims,)	
)	
)	
Defendants.)	

The Defendant Margaret R. Sims submits this memorandum in response to the Plaintiff's motion to deposit (Docket #12).

NATURE OF CASE

1. This is an interpleader case brought by the Plaintiff insurer regarding the proceeds of an life insurance policy on the life of David Sims. Heather Sims was the beneficiary of the Policy on David Sims and Margaret Sims is the Personal Representative of David Sims

FACTS:

2. This defendant agrees with the facts of the case as outlined by the Plaintiff, but would bring to the courts attention two additional items.

A. The Defendant Heather Sims has been convicted of Voluntary Manslaughter in Horry County South Carolina. Post-trial motions are pending

in that case and are scheduled to be heard in February 2016.

- B. Defendant Margaret Sims has filed a Petition in the Horry County Probate Court to disqualify Heather Sims from taking any benefits from the death of David Sims due to the intentional killing of David Sims (Exhibit A).

ARGUMENT

3. This Defendant agrees that Plaintiff is entitled to deposit the funds with the court and be released from any other claim. She also agrees that in an interpleader action, the court has discretion to award attorney's fees and costs to the Plaintiff acting and an fair and independent stakeholder, if it is fair and equitable to do so. *Island Title Corp. v. Bundy*, 488 F.Supp.2d 1084 (D. Haw., 2007). , Attorneys' fee awards are properly limited to those fees that are incurred in filing the action and pursuing the plan's release from liability, not in litigating the merits of the adverse claimants' positions.

4. Based on the above legal standard the charges for March 9, 2015 were not part the Plaintiff's self-interest and not as a disinterested stakeholder

5. This Defendant asks the Plaintiff be allowed to deposit the funds with the court and discharged from any additional claims by the Defendants, and this court order the funds be held subject the resolution of the Horry County Probate petition.

/s/Louis D Nettles

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